

EXHIBIT A

IN THE UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MARK CUILLA and AMY CUILLA,

Plaintiffs,

v.

WESTLAKE ROYAL BUILDING
PRODUCTS, INC.,

Defendant.

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Case No. _____

INDEX OF STATE COURT DOCUMENTS BEING FILED

Document No.	Date Filed	Description of Document
1		Docket Sheet as of 9-6-2023
2	8-03-2023	Plaintiff's Original Petition
3	8-03-2023	Attorney Cover Letter
4	8-03-2023	Citation to Westlake Royal Building Products, Inc.
5	8-10-2023	Return of Service on Westlake Royal Building Products, Inc.
6	6-29-2023	Defendant's Original Answer and Affirmative Defenses

DOCUMENT 1

REGISTER OF ACTIONS

CASE No. CC-C20230313

PARTY INFORMATION

Defendant	Westlake Royal Building Products, Inc.	Lead Attorneys Mark A Goodman <i>Retained</i> 972-991-0889(W)
Plaintiff	Cuilla, Amy	Caleb M. Terrell <i>Retained</i> 817-338-1616(W)
Plaintiff	Cuilla, Mark	Caleb M. Terrell <i>Retained</i> 817-338-1616(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS			
08/03/2023	New Cases Filed (OCA)		
08/03/2023	Petition		
	<i>Plaintiff's Original Petition</i>		
08/03/2023	Other		
	<i>Attorney Cover Letter</i>		
08/03/2023	Citation		
	<i>Citation issued to Westlake Royal Building Products, Inc. and sent to Atty for service</i>		
08/03/2023	Citation		
	Westlake Royal Building Products, Inc.	Served	08/08/2023
		Returned	08/10/2023
08/10/2023	Citation		
	<i>Citation Issued to Westlake Royal Building Products, Inc Returned Executed on 8/8/2023</i>		
09/01/2023	Answer		
	<i>Defendant's Original Answer and Affirmative Defenses</i>		

FINANCIAL INFORMATION

Plaintiff Cuilla, Mark			
	Total Financial Assessment		378.00
	Total Payments and Credits		378.00
	Balance Due as of 09/06/2023		0.00
08/03/2023	Transaction Assessment		378.00
08/03/2023	E-File	Receipt # CC-70045	(241.00)
08/03/2023	State Credit	Cuilla, Mark	(137.00)

DOCUMENT 2



Service of Process Transmittal Summary

TO: Ben Ederington, General Counsel
WESTLAKE CHEMICAL CORPORATION
2801 Post Oak Blvd Ste 600
Houston, TX 77056-6105

RE: Process Served in Texas

FOR: Westlake Royal Building Products Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: MARK CUILLA AND AMY CUILLA vs. WESTLAKE ROYAL BUILDING PRODUCTS, INC.

CASE #: CCC20230313

PROCESS SERVED ON: C T Corporation System, Dallas, TX

DATE/METHOD OF SERVICE: By Process Server on 08/08/2023 at 12:25

JURISDICTION SERVED: Texas

ACTION ITEMS: CT will retain the current log

Image SOP

Email Notification, Ben Ederington bederington@westlake.com

Email Notification, Eva Gregory egregory@westlake.com

Email Notification, Rebecca Moring rmoring@westlake.com

Email Notification, Melissa Judd mjudd@westlake.com

Email Notification, Bre Holly sholly@westlake.com

Email Notification, Richard Kroger rkroger@westlake.com

Email Notification, Sergio Garza sgarza@westlake.com

REGISTERED AGENT CONTACT: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201
866-665-5799
SouthTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

PROCESS SERVER DELIVERY DETAILS

Date: Tue, Aug 8, 2023
Server Name: Larry Lathan

Entity Served	WESTLAKE ROYAL BUILDING PRODUCTS INC.
Case Number	CC-C20230313
Jurisdiction	TX

Inserts		



THE STATE OF TEXAS
COUNTY OF JOHNSON

COUNTY COURT AT LAW 2

CITATION FOR PERSONAL SERVICE

CC-C20230313

To: Westlake Royal Building Products, Inc.
C T Corporation System
1999 Bryan Street Suite 900
Dallas, TX 75201

Or wherever he/she may be found

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

You are hereby commanded to appear by filing a written answer to the petition of plaintiff at or before 10 o'clock a.m. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable County Court at Law 2 Johnson County, Texas at the Guinn Justice Center, 204 S. Buffalo Ave., in the City of Cleburne, Texas.

Said petition was filed in said Court on this the 3rd day of August, 2023, in this cause, numbered CC-C20230313 on the docket of said Court and styled:

Mark Cuilla and Amy Cuilla vs. Westlake Royal Building Products, Inc.

ATTORNEY FOR PLAINTIFF: Caleb M. Terrell
420 Throckmorton Street Suite 1210
Fort Worth TX 76102

The nature of this demand is fully shown by a true and correct copy of the petition, accompanying this citation and made a part hereof. The Officer executing this citation shall promptly serve the same according to requirements of law, and mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Cleburne, Johnson County, Texas, on this the 3rd day of August, 2023.



April Long, County Clerk
Guinn Justice Center – Suite 407
204 S. Buffalo Ave.
PO Box 662
Cleburne, Johnson County, Texas 76033

By: Rita-Jean Blavier
Rita-Jean Blavier, Deputy

OFFICER'S RETURN

Came to hand this ___ day of _____, 20 __, and executed at _____, within the County of _____ at ___ o'clock __ m. on the ___ day of _____, _____, by delivering to the within named _____, in person, a true copy of this citation together with the accompanying copy of the petition, and endorsed on said copy of citation the date of delivery.

Sheriff/Constable of _____ County, Texas

By: _____ Deputy

AUTHORIZED PERSON'S RETURN

Came to hand this ____ day of _____, 20____, and executed on the ____ day of _____, 20____, at _____ o'clock __M on the ____ day of _____, 20____, by delivering to the within named _____ in person, a true copy of this citation together with the accompanying copy of the petition.

Certified Server Certificate : _____

Expiration Date: _____

Authorized Person's Signature

Subscribed and sworn to before me, the undersigned authority, this ____ day of _____, 20____.

Notary Public

Commission Expires: _____

OR

My name is _____; my date of birth is _____;
First Middle Last

and my address is _____, _____, Texas,
Street City

_____, USA. I declare under penalty of perjury that the foregoing is true and correct.
Zip Code

Executed in _____ County, State of _____, on the ____ day
of _____, 20____.

Declarant Signature

Filed: 8/3/2023 11:31 AM
April Long, County Clerk
Johnson County, Texas
By: Rita-Jean Blavier, Deputy

Cause No. CC-C20230313

MARK CUILLA AND AMY CUILLA

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IN THE COUNTY COURT

Johnson County - County Court at Law No.

V.

§

AT LAW NO. _____

§

WESTLAKE ROYAL BUILDING
PRODUCTS, INC.

§

§

JOHNSON COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Mark Cuilla and Amy Cuilla, Plaintiffs in the above styled and numbered cause of action, and files this Original Petition against Westlake Royal Building Products, Inc. ("Defendant") and for same will respectively show unto the Court the following:

I.

1. Pursuant to Rule 190.2 of the Texas Rules of Civil Procedure, the above-styled lawsuit is a Level I case, and Plaintiffs seek monetary relief within the jurisdictional limits of the Court of \$250,000.00 or less, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs.

II.

2. Plaintiffs are individuals residing at 11512 County Road 1015, Crowley, Texas 76036.

3. Defendant is an Delaware Corporation with its principal place of business at 10653 S. River Front Parkway, Ste. 300, South Jordan, Utah 84095. Defendant is duly authorized to conduct business in the state of Texas. Service of process may be had by serving C T Corporation System, its registered agent, at the registered address of 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

III.

4. Krestmark Industries, L.P. ("Krestmark") promised to install Plaintiffs' windows in a good and workmanlike manner. After the initial installation of the windows, the windows failed. Plaintiffs then made a warranty claim on the windows. At that time, Krestmark replaced the defective windows.

5. However, only a few years later, the windows failed again. When Plaintiffs reached back out the Krestmark regarding the windows, they were informed that Krestmark had been bought by Defendant. As a result, Plaintiffs made another warranty claim on their defective windows. However, this time, Defendant took the position that curing the damage caused by the defective installation and/or defective windows was not their responsibility. Instead, Defendant stated that the Plaintiffs would be responsible to remedy its or Krestmark's defective work and/or windows.

6. Although Defendant's own expert agrees that Defendant is responsible for the damages caused to the Plaintiffs, Defendants refuse to rectify the damage caused by their shoddy workmanship and/or materials.

7. The conduct of the Defendant constitutes a deceptive trade practice as (1) this is unconscionable course of action, (2) by representing goods or services had characteristics that they did not have, (3) by representing that goods or services were of a particular standard when they are of another, (4) by representing that an agreement confers rights, remedies, or obligations which it does not have, and (5) for failing to meet the warranty of a good and workmanlike manner. Plaintiffs pray for damages as allowed by law for these violations.

IV.

8. Plaintiffs sues for reasonable attorney's fees through trial and all appellate steps.

V.

9. All conditions precedent to the Defendants' liability have been performed, have Occurred, or have been waived.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that after trial hereon, the Plaintiffs be awarded all their actual damages as said forth above, for pre-judgment and post-judgment interest, for court costs, reasonable attorney's fees, through trial and all appellant steps and for any and all other relief, both at law and in equity to which Plaintiff may be justly entitled.

Respectfully Submitted,

PADFIELD & STOUT, LLP
420 Throckmorton Street, Suite 1210
Fort Worth, Texas 76102
Phone: (817) 338-1616
Facsimile: (817) 338-1610

/s/ Caleb M. Terrell
S. GARY WERLEY
State Bar No. 21187000
sgwerley@werleylaw.com
Caleb M. Terrell
State Bar No. 24131706
cterrell@padfieldstout.com

ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF SERVICE

This is to certify that on this day of e-file a true and correct copy of the above was served upon the attorney for Defendant through its registered agent for service of process.

By: /s/ Caleb M. Terrell
Caleb M. Terrell

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Callie Watt on behalf of Caleb Terrell
 Bar No. 24131706
 cwatt@padfieldstout.com
 Envelope ID: 78175866
 Filing Code Description: Proposed Order
 Filing Description: Original Petition
 Status as of 8/3/2023 2:18 PM CST

Associated Case Party: Amy Cuilla

Name	BarNumber	Email	TimestampSubmitted	Status
S. GaryWerley		gwerley@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Chrissy Fernandez		cfernandez@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Callie Watt		cwatt@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Caleb Terrell		cterrell@padfieldstout.com	8/3/2023 1:25:51 PM	SENT

Associated Case Party: Mark Cuilla

Name	BarNumber	Email	TimestampSubmitted	Status
S. GaryWerley		gwerley@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Chrissy Fernandez		cfernandez@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Callie Watt		cwatt@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Caleb Terrell		cterrell@padfieldstout.com	8/3/2023 1:25:51 PM	SENT

DOCUMENT 3



Padfield & Stout, LLP
Attorneys & Counselors at Law

CC-C20230313 - Johnson County - County Court at Law No. 2

Filed: 8/3/2023 11:31 AM
April Long, County Clerk
Johnson County, Texas
By: Rita-Jean Blavier, Deputy

Caleb M. Terrell
817.338.1616 | Telephone
817.338.1610 | Fax
cterrell@padfieldstout.com

August 3, 2023

Johnson County Clerk

VIA E-FILE

RE: *Mark Cuilla and Amy Cuilla vs. Westlake Royal Building Products, Inc.*

Dear Clerk:

Please issue a Citation to be served on the Defendant as follows:

Westlake Royal Building Products, Inc.
Registered agent, C T Corporation System
1999 Bryan Street, Suite 900
Dallas, Texas 75201

Pursuant to the recent changes to Tex. R. Civ. P. 190, please make sure the following language is included on each Citation.

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

Once issued, please email the Citation to cwatt@padfieldstout.com.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact my office.

Respectfully,

/s/ Caleb M. Terrell
Caleb M. Terrell

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Callie Watt on behalf of Caleb Terrell
 Bar No. 24131706
 cwatt@padfieldstout.com
 Envelope ID: 78175866
 Filing Code Description: Proposed Order
 Filing Description: Original Petition
 Status as of 8/3/2023 2:18 PM CST

Associated Case Party: Amy Cuilla

Name	BarNumber	Email	TimestampSubmitted	Status
S. GaryWerley		gwerley@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Chrissy Fernandez		cfernandez@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Callie Watt		cwatt@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Caleb Terrell		cterrell@padfieldstout.com	8/3/2023 1:25:51 PM	SENT

Associated Case Party: Mark Cuilla

Name	BarNumber	Email	TimestampSubmitted	Status
S. GaryWerley		gwerley@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Chrissy Fernandez		cfernandez@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Callie Watt		cwatt@padfieldstout.com	8/3/2023 1:25:51 PM	SENT
Caleb Terrell		cterrell@padfieldstout.com	8/3/2023 1:25:51 PM	SENT

DOCUMENT 4

THE STATE OF TEXAS
COUNTY OF JOHNSON

COUNTY COURT AT LAW 2

CITATION FOR PERSONAL SERVICE

CC-C20230313

To: Westlake Royal Building Products, Inc.
C T Corporation System
1999 Bryan Street Suite 900
Dallas, TX 75201

Or wherever he/she may be found

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

You are hereby commanded to appear by filing a written answer to the petition of plaintiff at or before 10 o'clock a.m. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable County Court at Law 2 Johnson County, Texas at the Guinn Justice Center, 204 S. Buffalo Ave., in the City of Cleburne, Texas.

Said petition was filed in said Court on this the 3rd day of August, 2023, in this cause, numbered CC-C20230313 on the docket of said Court and styled:

Mark Cuilla and Amy Cuilla vs. Westlake Royal Building Products, Inc.

ATTORNEY FOR PLAINTIFF: Caleb M. Terrell
420 Throckmorton Street Suite 1210
Fort Worth TX 76102

The nature of this demand is fully shown by a true and correct copy of the petition, accompanying this citation and made a part hereof. The Officer executing this citation shall promptly serve the same according to requirements of law, and mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Cleburne, Johnson County, Texas, on this the 3rd day of August, 2023.



April Long, County Clerk
Guinn Justice Center – Suite 407
204 S. Buffalo Ave.
PO Box 662
Cleburne, Johnson County, Texas 76033

By: Rita-Jean Blavier
Rita-Jean Blavier, Deputy

OFFICER'S RETURN

Came to hand this ___ day of _____, 20 __, and executed at _____, within the County of _____ at ___ o'clock ___ m. on the ___ day of _____, _____, by delivering to the within named _____, in person, a true copy of this citation together with the accompanying copy of the petition, and endorsed on said copy of citation the date of delivery.

Sheriff/Constable of _____ County, Texas

By: _____ Deputy

AUTHORIZED PERSON'S RETURN

Came to hand this ____ day of _____, 20____, and executed on the ____ day of _____, 20____, at _____ o'clock __M on the ____ day of _____, 20____, by delivering to the within named _____ in person, a true copy of this citation together with the accompanying copy of the petition.

Certified Server Certificate : _____

Expiration Date: _____

Authorized Person's Signature

Subscribed and sworn to before me, the undersigned authority, this ____ day of _____, 20____.

Notary Public

Commission Expires: _____

OR

My name is _____; my date of birth is _____;
First Middle Last

and my address is _____, _____, Texas,
Street City

_____, USA. I declare under penalty of perjury that the foregoing is true and correct.
Zip Code

Executed in _____ County, State of _____, on the ____ day
of _____, 20____.

Declarant Signature

DOCUMENT 5

Filed: 8/10/2023 10:48 AM
April Long, County Clerk
Johnson County, Texas
By: Melissa Opry, Deputy

RETURN OF SERVICE

State of Texas

County of Johnson

At Law #2 County Court

Case Number: CC-C20230313

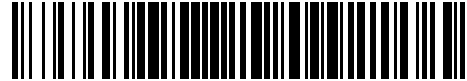
Plaintiff:

MARK CUILLA AND AMY CUILLA

vs.

Defendant:

**WESTLAKE ROYAL BUILDING
PRODUCTS, INC.**



BBW2023009185-2

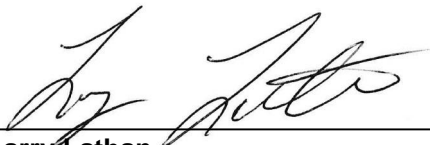
Received by Larry Lathan on the 4th day of August, 2023 at 12:40 pm to be served on **Westlake Royal Building Products, Inc. C T Corporation System, 1999 BRYAN STREET, SUITE 900, DALLAS, TX 75201.**

I, Larry Lathan, do hereby affirm that on the **8th day of August, 2023 at 3:01 pm, I:**

Served an authorized agent by delivering a true copy of the **CITATION / PLAINTIFF'S ORIGINAL PETITION** with the date and hour of service endorsed thereon by me, to: **George Martinez as Intake Specialist** at the address of: **1999 BRYAN STREET, SUITE 900, DALLAS, TX 75201** on behalf of **Westlake Royal Building Products, Inc.**, and informed said person of the contents therein, in compliance with state statutes.

I certify that I am over the age of 18, of sound mind, have no interest in the above action, and I am not a party to the suit. I am an authorized process server, in good standing, in the jurisdiction in which this service was made. The facts stated in this affidavit are within my personal knowledge and are true and correct.

"My name is Larry Lathan my date of birth is 12/27/1976 and my address is Work Address Of 1406 W. Salinas San Antonio, TX 78207. I declare under penalty of perjury that the foregoing is true and correct. Executed in Dallas County, State of Texas on August 09, 2023 by Larry Lathan declarant."



Larry Lathan
PSC-10621 Exp.10/31/2023

**Pronto Process
1406 W Salinas
San Antonio, TX 78207
(210) 226-7192**

Our Job Serial Number: BBW-2023009185

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Callie Watt on behalf of Caleb Terrell

Bar No. 24131706

cwatt@padfieldstout.com

Envelope ID: 78394175

Filing Code Description: Citation

Filing Description: Citation Issued to Westlake Royal Building Products, Inc Returned Executed on 8/8/2023

Status as of 8/10/2023 10:53 AM CST

Associated Case Party: Mark Cuilla

Name	BarNumber	Email	TimestampSubmitted	Status
Chrissy Fernandez		cfernandez@padfieldstout.com	8/10/2023 10:48:04 AM	SENT
S. GaryWerley		gwerley@padfieldstout.com	8/10/2023 10:48:04 AM	SENT
Callie Watt		cwatt@padfieldstout.com	8/10/2023 10:48:04 AM	SENT
Caleb Terrell		cterrell@padfieldstout.com	8/10/2023 10:48:04 AM	SENT

Associated Case Party: Amy Cuilla

Name	BarNumber	Email	TimestampSubmitted	Status
Chrissy Fernandez		cfernandez@padfieldstout.com	8/10/2023 10:48:04 AM	SENT
S. GaryWerley		gwerley@padfieldstout.com	8/10/2023 10:48:04 AM	SENT
Callie Watt		cwatt@padfieldstout.com	8/10/2023 10:48:04 AM	SENT
Caleb Terrell		cterrell@padfieldstout.com	8/10/2023 10:48:04 AM	SENT

DOCUMENT 6

Filed: 9/1/2023 3:15 PM
April Long, County Clerk
Johnson County, Texas
By: Rita-Jean Blavier, Deputy

CAUSE NO. CC-C20230313

MARK CUILLA AND AMY CUILLA,

Plaintiffs,

v.

**WESTLAKE ROYAL BUILDING
PRODUCTS, INC.**

Defendant.

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IN THE COUNTY COURT

AT LAW NO. 2

JOHNSON COUNTY, TEXAS

DEFENDANT’S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

Defendant, WESTLAKE ROYAL BUILDING PRODUCTS, INC. in the above-styled and numbered cause (“Defendant”), files its Answer to Plaintiffs’ Original Petition, and in support thereof would respectfully show the Court the following:

I.
GENERAL DENIAL

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every, all and singular, the allegations contained in the Plaintiffs’ Original Petition filed in this lawsuit by Plaintiffs in the above-styled and numbered cause, along with any other pleading seeking affirmative relief subsequently filed by Plaintiffs in this lawsuit, whether amended, supplemental, and/or otherwise, and Defendant hereby demands strict proof thereof by a preponderance of the credible evidence.

II.
AFFIRMATIVE DEFENSES

2. Defendant is not liable to Plaintiffs because Defendant’s acts were not the producing cause of the alleged damages incurred by Plaintiffs. Plaintiffs’ claims are barred as they have failed to mitigate their damages.

3. The damages alleged by Plaintiffs were caused, solely or partially, or proximately caused by some person or third party for whom Defendant is not legally responsible.

4. For further answer, if any is necessary, Defendant would show that in the unlikely event fault or negligence be found against Defendant, which is not admitted but specifically denied, that its fault or negligence be compared with comparative fault or causative negligence of all other parties, settling parties and responsible third parties which were negligent or at fault in this matter, pursuant to Chapter 33 of the Texas Rules of Civil Practice and Remedies Code.

5. Defendant asserts that the events and alleged damages in question were caused by the acts, omissions, services and/or products of third parties over whom this Defendant had no control or responsibility and were not the fault of this Defendant.

6. Defendant asserts that the events and alleged damages in question were caused by an independent, intervening, sole proximate and/or producing cause which is not related to the conduct or services provided by this Defendant.

7. Defendant asserts that the claims brought herein against Defendant are barred, in whole or in part, by other parties' own actions or omissions, breaches of contract, breaches of warranty, prior material breaches, or negligent acts or omissions.

8. Defendant asserts that it is entitled to a credit for any settlements that Plaintiffs receive or have received from any other person or entity in this matter, either prior to or during the litigation of this matter regarding the damages asserted herein. If Plaintiffs settle (or have settled) with any other person or entity, then Defendant reserves the right to make an election of credit for settlement under Chapter 33, Subchapter A, Section 33.012 of the Texas Civil Practice and Remedies Code and/or move for application of settlement proceeds under Texas' common law one-satisfaction rule.

9. Defendant asserts that it is entitled to and pleads application of the provisions of Chapters 32 and 33 of the Texas Civil Practice & Remedies Code with respect to contribution and comparative responsibility. Defendant asserts that parties other than Defendant are proportionately responsible for the damages alleged in this matter. In the event that one or more Defendant is found liable or settles, Defendant seeks judgment for contribution, indemnity, offset, credit, and/or proportionate responsibility.

10. Plaintiffs' claims are barred by the applicable statute of limitations.

III.
RULE 193.7 NOTICE

To the extent same becomes applicable and necessary in this case, Defendant gives notice to all parties as set for in Tex. R. Civ. P. 193.7 that any and all documents produced should be used against the party producing the document at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

IV.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant prays that upon final hearing, the Court enter a judgment that Plaintiffs take nothing by way of their claims against Defendant in this case, that all costs be taxed against Plaintiffs, and that Defendant be awarded such other and further relief, both general and special, at law and in equity, to which Defendant may show itself to be justly entitled.

Respectfully submitted,

FOX ROTHSCHILD LLP

By: 

Mark A. Goodman

State Bar No. 08156920

mark.goodman@foxrothschild.com

Zachary Faulkner

State Bar No. 24113654

zfaulkner@foxrothschild.com

Saint Ann Court

2501 N. Harwood Street, Suite 1800

Dallas, TX 75201

(972) 991-0889

(972) 404-0516 – Fax

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September 2023, a true and correct copy of the foregoing instrument was served in accordance with the Texas Rules of Civil Procedure on all known counsel of record.



Mark A. Goodman

Automated Certificate of eService

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Felicia Harris on behalf of Mark Goodman

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Filing Code Description: Answer/Response

Filing Description: 20230901Ds Answer and Affirm Defenses

Status as of 9/1/2023 3:37 PM CST

Associated Case Party: Mark Cuilla

Name	BarNumber	Email	TimestampSubmitted	Status
Chrissy Fernandez		cfernandez@padfieldstout.com	9/1/2023 3:15:57 PM	SENT
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Callie Watt		cwatt@padfieldstout.com	9/1/2023 3:15:57 PM	SENT
Caleb Terrell		cterrell@padfieldstout.com	9/1/2023 3:15:57 PM	SENT

Associated Case Party: Amy Cuilla

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